

may not be dispositive if the taxpayer's participation in the tax shelter lacked significant business purpose, if the taxpayer claimed tax benefits that are unreasonable in comparison to the taxpayer's investment in the tax shelter, or if the taxpayer agreed with the organizer or promoter of the tax shelter that the taxpayer would protect the confidentiality of the tax aspects of the structure of the tax shelter.

(4) *Other factors.* Facts and circumstances other than a corporation's legal justification may be taken into account, as appropriate, in determining whether the corporation acted with reasonable cause and in good faith with respect to a tax shelter item regardless of whether the minimum requirements of paragraph (e)(2) of this section are satisfied.

(f) *Transactions between persons described in section 482 and net section 482 transfer price adjustments.* [Reserved]

(g) *Valuation misstatements of charitable deduction property—(1) In general.* There may be reasonable cause and good faith with respect to a portion of an underpayment that is attributable to a substantial (or gross) valuation misstatement of charitable deduction property (as defined in paragraph (g)(2) of this section) only if—

(i) The claimed value of the property was based on a qualified appraisal (as defined in paragraph (g)(2) of this section) by a qualified appraiser (as defined in paragraph (g)(2) of this section); and

(ii) In addition to obtaining a qualified appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

(2) *Definitions.* For purposes of this paragraph (g):

Charitable deduction property means any property (other than money or publicly traded securities, as defined in § 1.170A-13(c)(7)(xi)) contributed by the taxpayer in a contribution for which a deduction was claimed under section 170.

Qualified appraisal means a qualified appraisal as defined in § 1.170A-13(c)(3).

Qualified appraiser means a qualified appraiser as defined in § 1.170A-13(c)(5).

(3) *Special rules.* The rules of this paragraph (g) apply regardless of whether § 1.170A-13 permits a taxpayer

to claim a charitable contribution deduction for the property without obtaining a qualified appraisal. The rules of this paragraph (g) apply in addition to the generally applicable rules concerning reasonable cause and good faith.

[T.D. 8381, 56 FR 67508, Dec. 31, 1991; T.D. 8381, 57 FR 6166, Feb. 20, 1992, as amended by T.D. 8617, 60 FR 45666, Sept. 1, 1995; T.D. 8790, 63 FR 66435, Dec. 2, 1998]

§ 1.6664-4T Reasonable cause and good faith exception to section 6662 penalties.

(a)–(e) [Reserved]

(f) *Transactions between persons described in section 482 and net section 482 transfer price adjustments.* For purposes of applying the reasonable cause and good faith exception of section 6664(c) to net section 482 adjustments, the rules of § 1.6662-6(d) apply. A taxpayer that does not satisfy the rules of § 1.6662-6(d) for a net section 482 adjustment cannot satisfy the reasonable cause and good faith exception under section 6664(c). The rules of this section apply to underpayments subject to the transactional penalty in § 1.6662-6(b). If the standards of the net section 482 penalty exclusion provisions under § 1.6662-6(d) are met with respect to such underpayments, then the taxpayer will be considered to have acted with reasonable cause and good faith for purposes of this section.

[T.D. 8656, 61 FR 4885, Feb. 9, 1996]

§ 1.6694-0 Table of contents.

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§ 1.6694-3 Penalty for understatement due to willful, reckless, or intentional conduct.

- (a) In general.
- (1) Proscribed conduct.
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- (d) Examples.
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- (f) Rules or regulations.
- (g) Section 6694(b) penalty reduced by section 6694(a) penalty.
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§ 1.6694-4 Extension of period of collection where preparer pays 15 percent of a penalty for understatement of taxpayer's liability and certain other procedural matters.

- (a) In general.
- (b) Preparer must bring suit in district court to determine liability for penalty.
- (c) Suspension of running of period of limitations on collection.
- (d) Effective date.

[T.D. 8382, 56 FR 67514, Dec. 31, 1991]

§ 1.6694-1 Section 6694 penalties applicable to income tax return preparer.

(a) *Overview.* Section 6694(a) and section 6694(b) impose penalties on income tax return preparers for certain understatements of liability on a return or claim for refund. The section 6694(a) penalty is imposed for an understatement of liability with respect to tax imposed by subtitle A of the Internal Revenue Code that is due to a position for which there was not a realistic possibility of being sustained on its merits. The section 6694(b) penalty is imposed for an understatement of liability with respect to tax imposed by subtitle A of the Internal Revenue Code that is due to a willful attempt to understate tax liability or that is due to reckless or intentional disregard of rules or regulations. See § 1.6694-2 for rules relating to the penalty under section 6694(a). See § 1.6694-3 for rules relating to the penalty under section 6694(b).

(b) *Income tax return preparer—(1) In general.* Solely for purposes of the regulations under section 6694, the term “income tax return preparer” (“preparer”) means any person who is an income tax return preparer within the meaning of section 7701(a)(36) and § 301.7701-15 of this chapter, except that no more than one individual associated with a firm (for example, as a partner or employee) is treated as a preparer with respect to the same return or claim for refund. If a signing preparer is associated with a firm, that individual, and no other individual associated with the firm, is a preparer with respect to the return or claim for purposes of section 6694. If two or more individuals associated with a firm are income tax return preparers with respect to a return or claim for refund, within the meaning of section 7701(a)(36) and § 301.7701-15 of this chapter, and none of them is the signing preparer, only one of the individuals is a preparer (i.e., nonsigning preparer) with respect to that return or claim for purposes of section 6694. In such a case, ordinarily, the individual who is a preparer for purposes of section 6694 is the individual with overall supervisory responsibility for the advice given by the firm with respect to the return or claim. To